

1887-060 Chancery Causes: Lafayette M. Zion vs. William Zion &c
Lee Co.

Yeary, Roop, Sprinkle, Forester

1 Plat

CA-Estate Dispute
T-Property

To the Hon. John A. Kelly Judge of the
Circuit Court of Lee County Virginia:

Humbly complaining your Orator Lafayette
M. Zim would respectfully shew unto your
Honor, that on the 21st day of August 1886 his
father - Abraham D. Zim departed this life intestate
in said county of Lee the owner in fee of three
tracts of land lying and being in said county, one
of which is that in which he lived at the time
of his death, and is situated on the North Fork of
Powells River, about 10 miles north east of Janiceville,
containing about 144 acres and is very valuable;
and the other two tracts lies in the pocket country
and in the Mountains & the quantity thereof is
not known to your Orator.

Your Orator further states that said A.D. Zim at
his death left surviving him a widow Ann Zim
and 11 children and grand children his heirs at law
to wit your Orator Lafayette M. Zim Wm Zim, Elizabeth
Zim, now the wife of John J. Geary, Matthew Zimst, James
M. Zim, Harvey A. Zim, John Zim⁷, Mary P. Zim⁸
now the wife of Paul Rouse, Martha S. Zim now the
wife of Harvey L. Sprinkle, Asa T. Zim and Alph. S.
Zim, now the wife of Thomas Forester.

The said John Zim died before his father leaving an
heir at law to wit William D. Zim. And the said
Harvey A. Zim likewise died before his father leaving
four children his heirs at law whose names are
unknown & all of whom are infants under 21 years old.

* Your Orator further states that he has purchased & now owns the undivided interest of the said A. D. Zim's wife in the same tract of land as is shown by their deed of conveyance to him herewith filed. He asked (A. D.) so much money, and he is advised that this interest so purchased may be paid off and assigned him, joining the interest which he indicated.

Your Orator further states that said three tracts of land at the death of said A. D. Zim descended to him, and the other children and grand children of said A. D. Zim before named, subject to the dower of his widow therein, which has not been assigned her.

Your Orator further states that Asa T. Zim, Thomas Forester and Alpha F. Forester his wife and the unknown heirs at law of Harvey A. Zim are non residents of the State of Virginia.

Your Orator is advised that he is entitled in a court of equity to have dower in said real estate assigned the widow and the same partitioned between himself and the other heirs at law of said A. D. Zim and to attain that end is the object of this bill.

The premises considered your Orator prays that the said Wm. Zim, Wm. D. Zim, John J. Geary and Elizabeth Geary, Matthew W. Zim, James M. Zim, Reel Roof, Mary C. Roof, Harvey I. Sprinkle, Martha S. L. Sprinkle, Asa T. Zim, Thomas Forester, Alpha F. Forester, the unknown heirs at law of Harvey A. Zim dead, and Asa Zim be made defendants to this bill and be required to answer the same on Oath, that an order of publication be made posted and published against the said non resident defendants, and that a guardian ad litem be appointed for the unknown heirs at law of said Harvey A. Zim dead, to defend their interest in this cause and upon a hearing thereof a decree be entered assigning dower to said widow, and said lands

partitioned among the parties interested according
to their rights in the premises and he prays for
all general relief. May the Commonwealth writ of
Sh. issue directed to

Henry J. Morgan for Clerk

C 12.96
 S 7.00
 Comm. 25.50
 Dr 5.00
 G.A.L 5.00
 A 15.00
 \$70.46
 Leo C. 3.65
 \$74.11

Lapayitt M. J. M.
 as Bill for Contention

William J. M.

1886, Octo, Bill filed Spu.
 Exd on Home rights D. N.
 as to them & O. P. as to non
 residents & Cont'd

" Nov. D. N. confd as to
 Home rights O. P. & Cont'd
 as to non residents, and
 Cause set for hearing.

" Nov. Decree for partition
 & Continued

1887 March Decree
 Final

To The Hon Jm & Kelly Judge of the
Circuit Court of Le Co & d

The answer of Jm M Morgan
Guardian ad Litem for the unknown
Infants heirs at Law of Henry A. Bion
Heard who are respondents along with
others to a bill filed in this Honorable
Court, by Lafayette M. Bion

Respondent says he knows of
nothing, which he ought or could allege
to defeat or delay the Plaintiffs right
to have power assigned and the
lands partitioned as prayed for in
the Plaintiffs bill, But so far as
he knows and has been informed
it will be advantageous to have
the lands so partitioned

Respond says his said wards are
young and of tender years and
as such are infants, and deserve
the peculiar care of Court of Equity
and their interests in this cause will
be respectfully submitted to your honors
care & keeping - Having now as fully an-
swered in their behalf as deemed neces-
sary, or knowing what to answer, the
prayer of said Guardian ad Litem is that
his wards be here dismissed with their
reasonable costs, Jm M Morgan
Guardian ad Litem

Lafayette H. Bion
vs. Andrew G. L. L.
Wm Bion et al.

Filed Nov. 1886
J. A. Hyatt

G. A. L. fee 5.00

L. M. Zim Pff }
vs. } In Chy.
Wm. Zim & al Defts }

This cause came on again to be further heard on the papers heretofore read in the cause and the report of L. M. Carmichael, H. B. Joslyn, John E. Bush and Andrew Baumgardner the commissioners heretofore appointed, to assign down to the widow of A. D. Zim dead & to Partition the real estate of said Zim coming his heirs at law, filed in the cause March the 8 1887 and was argued by counsel. And the said report being unaccepted to. On consideration of all which it is adjudged ordered and decreed that said report be confirmed. And pursuant thereto, it is further adjudged ordered and decreed that Ann Zim widow of said A. D. Zim dead take and hold during her natural life the lot of land assigned her as above according to the notes and bounds as set out by said commissioners in their said report and represented on the plat which accompanies the same. That, Alpha A. Forester wife of Thomas Forester take and hold free from the claim of the other heirs lot No. 1 according to the notes and bounds set out in said report & shown on said plat. That Martha W. Zim so take and hold lot No. 2. That Elizabeth P. Seary wife of John J. Seary so take and hold lot No. 3. That Martha D. Sprinkle wife of L. Sprinkle so take and hold lot No. 4. That William D. Zim so take and hold lot. No. 5. That the Pff L. M. Zim so take and hold lots No. 6 & 7, one in his own right and the other in right of his purchase from said A. D. Zim's wife. That the heirs of Harvey A. Zim dead, so take and hold lot No. 8. That Wm. C. Zim so take and hold lot. No. 9. That Asa J. Zim so take and hold lot No. 10. & that James M. Zim so take and hold lot No. 11. And by consent of the parties interested the Mountain land is not partitioned. Therefore said Comrs are discharged from further duty in the premises and each of said heirs are required to pay the cost of this suit in proportion

to their interest in the lands partitioned, and the clerk of this, will deliver
to the clerk of the county court copies of the decree appointing said
commissioners to make said partition the report and plat of the said
comrs. and this decree of confirmation, and no further action being
necessary the parties are hence dismissed and the cause stricken
from the docket.

L. M. Gwin

Decree No. 2 final

Wm. Gwin vs. others

Entered Page 20

Enter the
29 March 1887
19. & 1/2 M

Lafayette M. Zim

vs.

Wm. Zim others

Plffs

Defts

In Chy

On the motion of the Plff. John M. Morgan is appointed guardian ad litem for the unknown heirs at law of Harvey A. Zim decd. and on his motion leave is granted him to file his answer and the same was thereupon filed, and the cause came on to be heard on the bill of the Plff taken for confessed by the adult defts and the answer of the infants by their guardian ad litem aforesaid and was argued by counsel. On consideration of all which it is adjudged ordered and decreed that dower be assigned the widow of A.D. Zim decd. and partition of his said lands be made pursuant to the prayer of the plffs bill, And to attain this end, Luther M. Carmichael, H.C. Joselyn John E. Burk and Andrew Baumgardner are appointed commissioners for the purpose, who will go on the lands in the bill mentioned, and will lay out and assign to the widow of A.D. Zim decd. her dower in his real estate, which shall consist of one equal third part in annual rental value, The same tract of land will then be partitioned among the heirs at law of said A.D. Zim decd. given in number, quantity, quality, and other conveniences considered, two of which shares they will assign the plaintiff - one in his own right, and one in right of his purchase from R. A. D. Zim wife as shown by exhibit A. with Plffs bill, and they will then assign to Wm. Zim³, a like share, to Wm. D. Zim⁴ son of John Zim decd. a like share, a like share to Elizabeth Geary wife of John J. Geary, a like share to Matthew H. Zim⁶, a like share to Jas. M. Zim⁷, a like share to Martha S. J. Sprinkle wife of Harvey L. Sprinkle, a like share to Asa I. Zim⁹, a like share to Alphonse F. Forester wife of Thomas Forester and a like share to the ^{unknown} heirs of

Harvey A. Zim died. And said commissioners in making this partition of the house place, will assign to the plaintiff said two lots adjoining each other if they can do so without prejudice to the rights of others, and said commissioners will then partition the Mountain land into 11 equal lots as near as practicable quality and quantity & other matters considered & they will assign one of such lots to each one of said heirs and split their action to the Court and the cause is continued

Lafayette M. Zim

as { Deem No 1

Harvey A. Zim

Entered by H. B. 1888

J. C. Wilson & Co

Entered this
Nov. 16 1888
H. B. 1888

30
20
10
40

of Harry & find said ^{the} said corners
 will, in measuring this portion of the
 same place as signs to the plaintiff
 and two lots adjoining each other
 if they equal so as without consideration
 to the other. ^{the} said corners
 will then partition the mountain into
 into ~~classes~~ equal parts or lots as
 near as practical in quality
 quantity. ^{no} other matters considered
 they will assign one of said lots to
 each one of said heirs and report
 their action to the Court.

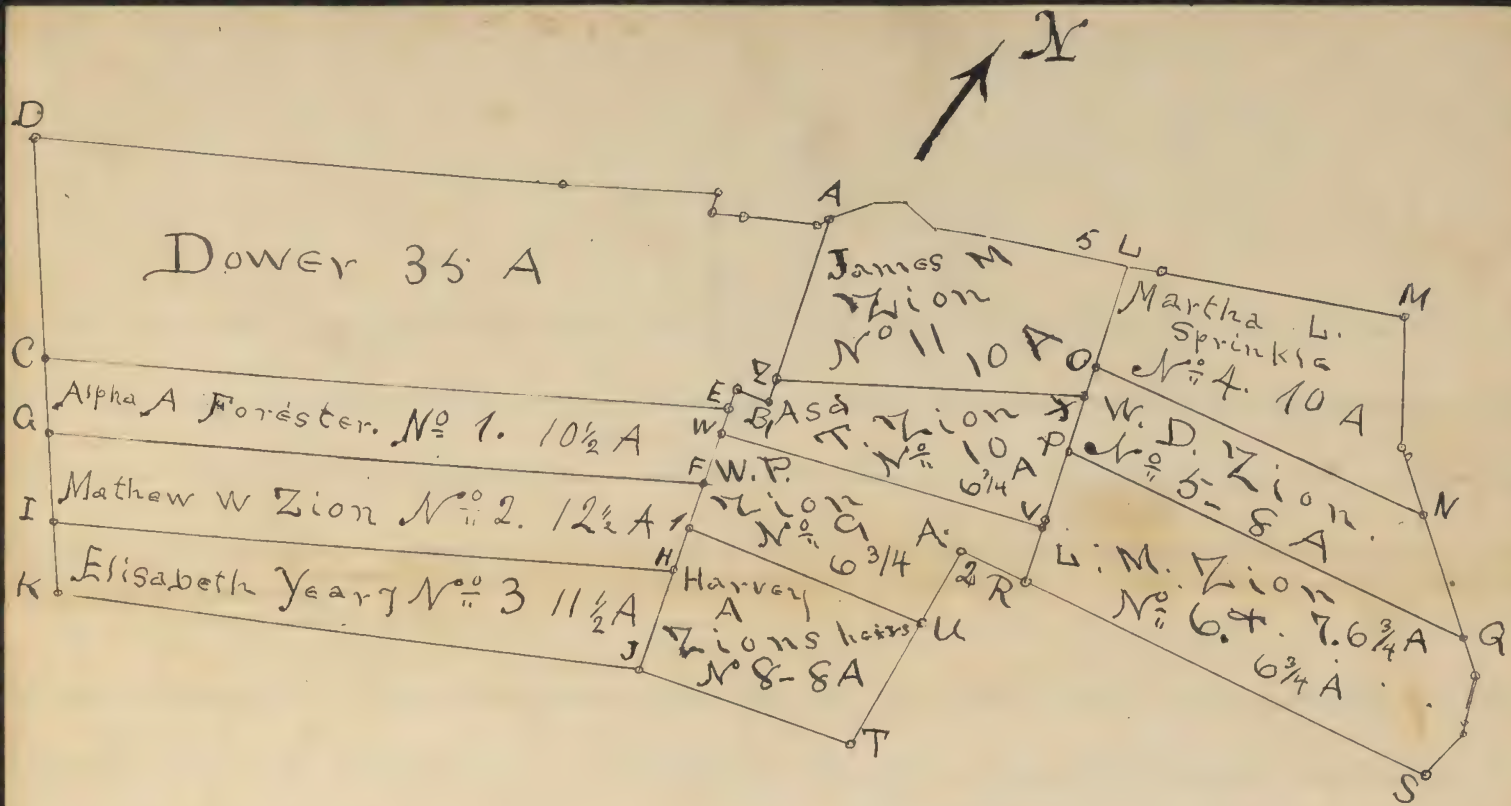
It is so ordered

Wm. D. Flannery

J. W. Flannery
 J. W. Flannery
 Wm. D. Flannery
 Wm. D. Flannery

Wm. D. Flannery
 Wm. D. Flannery

Exp. \$1.68
 \$2.00
 \$3.68



L. M. Zion Pleff
 VS
 William Zion et al Deff

In Chan.

Pursuant to an order of the Circuit Court of Lee Co. Virginia dated Nov. the 26th 1886 we the undersigned Commissioners proceeded the 25th day of Jan. 1887 to assign Dower and partition the lands of A. D. Zion deceased according to the following Plat and Report - We have laid off an assigned to the widow of said A. D. Zion that which we consider equal in rental value to one third of the real estate of which A. D. Zion died seized and possessed said estate being composed of two tracts or parcels of land not adjoining - known as the Home tract and the Mountain farm - We have assigned the whole of said Dower in the Home farm taking in considera-

The rental value of the Mountain farm hence said widow will not be entitled to dower in the future partition thereof. Said dower is bounded as follows to wit - Beginning at a stake on original line of survey N. E. of the dwelling-house, and on the Northern bound of orchard thence S 18 E 33 poles & 8 links to a stake at the S. E. Corner of the barn lot, thence with fence of the same S 73 1/2 W 6 poles & 15 li to a stake in the middle of a lane thence with lane S 16 E 4 po to a stake near to and S. E. of an apple tree thence leaving lane S 57 W 130 1/2 poles to a stake on original west-line thence with same & a fence N 39 W 42 1/2 poles to a stake on Kelleys line & with same and fence N 58 E 40 poles & 60 1/2 E 60 po & 56 E 29 poles to stake in a road & with same S 15 1/2 E 3 1/2 po thence with fence N 59 E 15 1/2 po & 35 E 2 po & 9 li to the beginning containing 35 Acres - A. B. E. C. D The remaining portion of said Home farm (composed of 108 acres) we have partitioned among the heirs of said A. D. Zion eleven in number - having due regard to quantity, quality, water, and conveniences - We have laid off and assigned to Alpha A. Forester wife of Thomas Forester Lot No 1, which

We regard equal in value to one eleventh
of the remaining 108 Acres And is
bounded as follows Beginning at (E) a
stake in a lane, a corner to the lower then
with line of the lower S 57° W 130½ poles
to (C) a stake on the original west line
and with the same S 39° E 13 poles & 11
links to (G) a stake thence N 57° E 124
poles to (F) a stake in lane & with the same
N 16° W 14 poles & 5 links to (E) the beginning
Containing 10½ Acres

We have laid off and assigned to Mathew
W. Zion Lot No 2, which we regard e-
qual in value to one eleventh of the 108
Acres. And is bounded as follows Beginning
at (H) a stake in said lane. Corner to Lot No 1
thence with line of the same S 57° W
124 poles to (G) a stake in newmans line
(original west line) and with the same
S 39° E 17 poles & 5 links to (I) a stake near a
black walnut - thence E 118 poles to (H) a
stake in lane and with the same N 16° W
18½ poles to (F) the beginning Containing
12½ Acres - Within this lot is a lane, the
rails of which we direct to be divided into
3 equal parts and placed upon the division
lines EC. FG. HI.

We have laid off and assigned to

Elisabeth P Yeary wife of John G Yeary
 Lot N^o 3 equal in value to one eleventh of
 the 108 Acres and is bounded as follows.

Beginning at (H) Corner to Lot N^o 2 Thence
 with line S 66 E 19½ to a stake (at J) in original
 line now George Russell's and with the
 same S 61 W 110½ poles to (K) stake in the new
 man line and with the same N 39 W 13
 to (I) a stake near a black-walnut corner to
 Lot N^o 2 and with a line of the same
 N E 118 poles to (H) the beginning
 Containing 11½ Acres.

We have laid off and assigned to
 Marthen L. Sprinkle Lot N^o 4 which
 we regard equal in value to one eleventh
 of the remaining 108 Acres. And is
 bounded as follows Beginning at (L) a
 sassafras on original line (now Kelleys)
 thence S 18 E 19½ poles to a stake thence N 78½ E
 68 poles to a stake on the North Fork of Powell's
 river and with the same N 55 W 14 poles
 N 80½ W 26 poles to Kelleys line and with
 the same S 61½ W 46 poles S 66½ W 7 poles to
 the beginning - Containing 10 Acres
 & indicated on Plat L.O.N.M.

We have laid off and assigned to William
 L. Zion Lot N^o 5 which we consider equal
 in value to one eleventh of the 108 Acres

and bounded as follows Beginning at
(O) a stake corner to Lot N^o 4 thence S 18 E
17 poles to (P) a stake N 79 E 84 poles to (Q)
a stake on the North Fork of Powell's River
and up the same N 54 W 24 poles to (N)
a stake corner to Lot N^o 4 and with a
line of the same S 78 1/4 W 68 poles to (O) the
Beginning - Containing 8 acres - This Lot
has free access to Spring (near Y) on Lot
N^o 4 - but only for house-hold use.

We have laid off and assigned to the
pleff. L. M. Zion Lot N^o 6 & 7 which we
regard equal in value to 2 elevenths
of the 108 Acres - or two shares, one in his
own right & one by right of purchase
from Reel Reep & wife. And bounded as
follows - Beginning at (P) a stake corner
to Lot N^o 5 thence with line of same
N 79 E 84 poles to a stake on the North Fork
of Powell's river thence down the same S
55 E 4 poles S 21 1/4 E 10 poles & 20 links to a stake
S 1 1/2 W 11 poles to (S) a stake near original
corner. a mulberry & 2 lms - thence with
original line (now Charles Garrisons) S 79 W
73 1/2 poles - passing said corner at 2 poles - to (Q)
a stake corner to Lot N^o 9 and with a
line of the same N 18 E 26 poles to (P) the
beginning - Containing 13 3/4 Acres - This

Lot shall have free access to water for
house-hold use at the spring (near Y) on
Lot N^o 4

We have laid off and assigned to the heirs
of Harvey A. Zion deed Lot N^o 8 which we
believe equal in value to one eleventh of
the remaining 108 Acres. And is bound
deed as follows to wit: Beginning at (J)
a corner to Lot 3 - a stake in a lane and
on Russell's line - thence with same and
a line fence N 73 1/2 E 42 poles to a stake
N 6 1/2 W 28 1/2 poles to a stake at (U) S 74 1/4 W 46
poles & 8 links to a stake in lane (at 7)
and opposite South gate-post - thence with
lane S 16 E 28 1/2 poles to the beginning (J)
Containing 8 Acres -

We have laid off and assigned to Will-
iam P. Zion Lot N^o 9 which we regard
equal in value to one eleventh of the 108
Acres And bounded as follows - Begin-
ning at - (2) a black-walnut - thence S 6 1/2 E 13 1/2
poles to (U) a stake corner to Lot N^o 8 and
with a line of the same S 74 1/4 W 46 poles
& 8 links to a stake in lane near a gate
post - thence with lane N 16 W 18 poles & 20
links to (W) a stake thence N 69 1/2 E 62 po
to a stake (V) S 18 E 11 poles & 15 links to (R) a
stake in original line & with the same

S 79 W 13½ poles to (2) the beginning
Containing 6¾ Acres - we assign the
rails on this lot - in the fence that runs
Eastward & Westward - equally to this Lot -
and Lot No 9. to be moved down and
placed on the division line 1. u.

We have assigned to Asa. T. Zion Lot No
10 which we regard equal in value to one
eleventh of the entire 108 Acres and is
bounded as follows Beginning at (w) a
stake in lane & corner to Lot No 9 thence
with lane N 18 W 8½ poles to a stake corner to
the lower thence with line of the same
and fence N 73½ E 6 poles & 15 links to a
stake N 18 W 5 poles & 10 links to (Z) corner
to Lot No 11 thence leaving down and with
a line of said lot N 57 E 5.7 poles to (x) a stake
on line of Lot No 5 thence S 18 E 24½ poles
to (v) a stake corner to Lot No 9 thence with line
of same S 69½ W 62 poles to (w) the beginning
Containing 6¾ Acres - we assign the fence
situated in this lot running lengthwise there-
of, equally to this Lot and Lot No 11 -
to be placed on the division line (Z. X.) between
said Lots -

We have laid off and assigned to James
M. Zion Lot No 11 which we consider equal
in value to one eleventh the 108 Acres

and which is bounded as follows to wit
 Beginning at (L) a stake corner to Lot 10
 thence N 57 E 5.7 poles to (X) a stake on line
 of Lot 105 thence N 18 W 25 poles to (L) a sasafas
 on original line thence with same fence
 S 66 1/2 W 13 poles to a stake in a hollow S 56 W 14
 poles S 66 W 12 poles ~~N~~ 89 W 7 1/2 poles to a cedar
 S 55 1/4 W 5 1/2 poles S 35 W 9 1/2 poles to (A) corner to
 lower and with a line of same S 18 E 27
 poles & 23 links to the beginning

Containing 10 Acres. From this assign-
 ment we exclude a right-of-way to the
 spring on this lot for the benefit of the
 lower to obtain water for house-hold
 purposes - There is a fence running northward
 from 2 to 5. We demand the rails of said fence
 to be placed as a line fence from R to L.
 All of which is most Respect Submitted.

J. M. Carnical

W. W. ...

J. M. E. Bell

Virginia Lee county Court clerk's office Aug. 30th 1887.

The foregoing Plat & report together with the decrees
 therewith, of the partition of the land of S. D. Zim, dec'd
 was this day filed in this office and admitted
 to record.

Teste John R. Gibson clerk.

L. M. Zion
 vs. ³ ₃ Court Report
 of Petition
 William Zion et al

Filed March 8th 1887.

J. A. Stagg & Co

Recorded In Reed
 Book # 22 477 to 482
 John R. Gibson Clerk

Court fee \$25.50

Cost-
 L. M. Carnicel 6 days \$2.00 per day \$ 12.00
 H. C. Goshginn 3 days \$1.50 per day 4.50
 Andrew Baumgardner " " 4.50
 Book " " 1 1/2 " 4.50
 \$25.50

A. D. Gain died Aug 21 1886 left a will to
 Anny Gain - & the following children his heirs
 at law. - John Gain & wife dead. left an infant
 son to wit Wm. D. Gain

- 2 Wm. Gain
- 3 Elizabeth wife of John F. Gentry
- 4 Matthew W. Gain
- 5 Lafayette M. Gain
- 6 Jas. M. Gain
- 7 Harvey K. Gain. dead leaving four children none of
 who are yet of age. Heirs are unknown
- 8 Phoebe Gain the wife of Asa Roper
- 9 Martin S. Gain wife of L. Sprinkel
- 10 Asa J. Gain Texas
- 11 Alpha F. Gain wife of Thomas Forester Texas
 144 acres in Texas tract.

Two Mountain tracts jointly with Asa

I do swear that Asa Gain, Thomas Forester and
 Alpha Forester, and the unknown heirs of Anny
 Gain dead are true residents of the State of W.
 so help me God.

Lafayette M. Gain

Sworn to before me Aug 27 1886

My Comm. expires

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU to summon

Wm¹ Zion, Wm² Zion
John³ Yeary, Elizabeth⁴ Yeary, Mathew⁵ Zion, Jas. W.⁶
Zion, Reuben⁷ Rock, Allan⁸ & Rock, Harney⁹ Zion
Martin¹⁰ L. J. Sprinkle, Asa¹¹ L. Zion, Thos. Forester, Alpha¹² H. Forester,
the unknown heirs of Harney¹³ A. Zion and Ann¹⁴ Zion

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House, on the first
Monday October next, being Rule Day, to answer a Bill in Chancery exhibited in our
Court against them, by

Lafayette W. Zion

And have then and there this Writ. Witness, J. A. G. HYATT, Clerk of our said Court, at the
Court House, this 22nd day of Sept, 1884, in the 110 year of the Commonwealth.

J. A. G. Hyatt Clerk.

A COPY--TESTE:

W. J. M.

L. M. Ziow

No. 3 Spruce St.

William Geo. Wetzel

6 October Rules 1886

Extrait de la déposition

Copies of this Chas to Mr. D.

John J. Gannett

Given James M. Ford, Recd.

Book twice, January 2

2. Amable Switzerland and

Sept 29 1886

1842

1870

G. C. H. Quarry - - - \$5.00

This is to certify that the
following notice of pub-
lication has appeared four
successive weeks in the
7th Herald published at
Jonesville ~~the~~ Va
ending Nov-18th 1886,
J. P. R. Depp
Publisher
Publication for \$5.00

VIRGINIA—In the Clerk's office of the
Circuit Court for Lee County, on the
22nd day of September, 1886,

Lafayette M. Zion, Plaintiff,
vs.
Wm. Zion, et al. defendants } In Chancery.

The object of this suit is to have dower as-
signed the widow of A. D. Zion, deceased,
and to have partition made of the lands own-
ed by said A. D. Zion at the time of his
death, between his heirs, and it appearing
from an affidavit filed in the cause that the
defendants, Asa T. Zion, Thomas Forester,
and Alpha F. Forester, his wife, and the un-
known heirs of Harvey A. Zion, are non-res-
idents of this State, it is therefore ordered
that they appear here within one month after
the publication of this order, and do what
may be necessary to protect their interest in
this suit.

A copy teste:

J. A. G. HYATT,

Circuit Clerk.

H. J. Morgan, P. Q.

L. M. Zion

vs 3 Pub
certificate

Wm Zion et al

Pub. fee 5.00